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4 **IN THE CIRCUIT COURT OF THE STATE OF OREGON**
5 **FOR MULTNOMAH COUNTY**
6
7

8 **ALEXANDRO ALONSO**, a minor by and
9 through his guardian ad litem **LUCIA ALONSO**,

10 Plaintiff,

11 v.

12 **MOUNT HOOD COMMUNITY COLLEGE**
13 **DISTRICT**, a Community College District, doing
14 business as MOUNT HOOD COMMUNITY
COLLEGE,

15 Defendant.

Case No.

9 **COMPLAINT**

(Public Accommodation Discrimination)

11 NOT SUBJECT TO MANDATORY
12 ARBITRATION
JURY TRIAL REQUESTED

(Damages: \$77,500)

Fee Authority: ORS 21.160(1)(c): \$560

16 **NATURE OF THE ACTION**
17

18 1.

19 This is an action for discrimination in public accommodations due to disability pursuant
20 to ORS 659A.142. It is also an action for discrimination in public accommodations due to
21 disability pursuant to the Americans with Disabilities Act as amended, 42 U.S.C. § 12182, and
22 Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794.
23

24 2.

25 The events, occurrences, and omissions alleged herein were done in Gresham,
26

1 Multnomah County, Oregon.

2 **PARTIES**

3 3.

4 Plaintiff **ALEXANDRO ALONSO**, a minor by and through his guardian ad litem
5 **LUCIA ALONSO**, is a resident and citizen of the state of Oregon, who was at all material times
6 was an individual with a disability as defined by ORS 659A, a qualified individual with a
7 disability as defined by 42 U.S.C. § 12131(2), and an individual with a disability as defined by
8 29 U.S.C. § 705(20) in that he suffers from one or more physical and/or mental impairments that
9 substantially limit one or more major life activities, including thinking and concentrating,
10 interacting with others, and learning.
11

12 4.

13 Defendant **MOUNT HOOD COMMUNITY COLLEGE DISTRICT** (“MHCC”) is a
14 community college district operating as **MOUNT HOOD COMMUNITY COLLEGE**. MHCC
15 is a place of public accommodation as defined in ORS 659A.400(1)(a). It is also a program or
16 activity as defined by 29 U.S.C. § 794(b) in that it is a recipient of federal financial assistance. It
17 is also a public entity as defined by 42 U.S.C. § 12131(1).
18

19 **PROCEDURAL REQUIREMENTS**

20 5.

21 Plaintiff timely filed an administrative complaint with the Oregon Bureau of Labor and
22 Industries, Civil Rights Division, alleging a violation of ORS 659A.142.
23

24 6.

1 Plaintiff has provided timely notice of claim pursuant to ORS 30.275(3)(a) & (b).

2 **GENERAL ALLEGATIONS**

3 7.

4 Plaintiff's mother and guardian, Lucia Alonso, enrolled her son, Alexandro, in swimming
5 classes offered publicly by MHCC on or around November 2, 2017. She disclosed that Alex is a
6 child with a disability.
7

8 8.

9 At the time, Alexandro had completed about eight weeks of lessons through a Special
10 Olympics program, which had ended a couple weeks before his first scheduled swimming lesson
11 with defendant's aquatic center. He was still a beginning-level swimmer.
12

13 9.

14 When Alexandro appeared for the first lesson, the MHCC swim instructor, Rob Martini,
15 provided no instruction and at the conclusion of the scheduled lesson time Ms. Alonso was
16 advised that the instructor did not want a student with Alexandro's disability in his class. As
17 such, MHCC denied Alexandro services expressly due to his disability.
18

19 10.

20 Ms. Alonso lodged a complaint with MHCC and its Office of Diversity, Equity and
21 Inclusion. Initially, while that complaint was pending, MHCC provided private lessons as an
22 accommodation. Alexandro was denied the opportunity to participate in group lessons and enjoy
23 the benefits of a social learning environment.
24

25 11.

MHCC conducted a flawed and negligent investigation in that it provided minimal observation of Alexandro's capabilities but nonetheless concluded that he was able to participate in group swim lessons. Further accommodations were denied based on such inadequate investigation.

12.

MHCC concluded its internal investigation and the MHCC Office of Diversity, Equity and Inclusion issued a report claiming no discrimination occurred. Upon issuing that report, MHCC terminated its individual lessons for Alexandro and has provided no accommodation to Alexandro to permit his equal participation in the public accommodation offered by MHCC Aquatic Center.

Damages

13.

As a result of the unlawful actions alleged herein, plaintiff has suffered economic damages in such amount as may be established at trial. Solely for purposes of ORCP 18B, such damages are estimated and alleged to be \$2,000.

14.

As a further result of defendants' actions alleged herein, plaintiff has suffered emotional harm and exacerbation of his disability and is entitled to recover noneconomic damages for which he should be compensated in an amount found to be appropriate by a jury based on the evidence presented at trial. Solely for purposes of ORCP 18B, such damages are estimated and alleged to be \$75,000.

15.

Plaintiff is entitled to a declaration that defendant acted in violation of the statutes set forth in this complaint for relief and equitable relief enjoining defendants from future violations of the statutes set forth herein, requiring defendant to institute policies and procedures to guarantee full access to and participation in its public offerings, and engage in a good faith interactive process to develop a plan to permit Alexandro to participate fully in the MHCC Aquatic center's programs with accommodations as may be necessary, and such other relief on such terms as the court may direct.

16.

Plaintiff is entitled to an award of attorney fees, expert witness fees and costs incurred herein, pursuant to ORS 659A.885, 42 U.S.C. § 12133, and 29 U.S.C. § 794a.

FIRST CLAIM FOR RELIEF

(Disability Discrimination in Public Accommodations)

COUNT ONE: ORS 659A.142

17.

Plaintiff incorporates the allegations contained in paragraphs 1 through 16 as though fully set forth herein.

18.

It is the public policy of the State of Oregon to guarantee individuals the fullest possible participation in the social and economic life of the state, to use and enjoy places of public accommodation, resort or amusement without discrimination on the basis of disability.

19.

It is an unlawful practice for any place of public accommodation to make any distinction, discrimination or restriction because a customer or patron is an individual with a disability.

20.

As a result of the acts, omissions, and circumstances described herein, defendant MHCC violated ORS 659A.142.

COUNT TWO: 42 U.S.C. § 12182

21.

Plaintiff incorporates the allegations contained in paragraphs 1 through 16 as though fully set forth herein.

22.

As a result of the acts, omissions, and circumstances described herein, defendant MHCC violated 42 U.S.C. § 12182.

COUNT THREE: 29 U.S.C. § 794

23.

Plaintiff incorporates the allegations contained in paragraphs 1 through 16 as though fully set forth herein.

24.

As a result of the acts, omissions, and circumstances described herein, defendant MHCC violated 29 U.S.C. § 794.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, plaintiff requests the Court to:

- 3 1. Declare defendants in violation of the statutes set forth herein;
- 4 2. Order defendant to make plaintiff whole by providing compensation for non-
- 5 economic losses in amounts as are awarded by the court or a jury;
- 6 3. Order defendants to compensate plaintiff for his economic losses in such amounts
- 7 as are awarded by the court or a jury;
- 8 4. Award plaintiff his costs of suit and reasonable attorney fees, and costs;
- 9 5. Order defendants to pay prejudgment interest and post-judgment interest on all
- 10 amounts due to plaintiff as a result of this action, with interest at the prevailing rate; and
- 11 6. Order such further or alternative relief in favor of plaintiff as the court deems
- 12 appropriate.
- 13
- 14

15 **JURY TRIAL DEMAND**

16 Plaintiff demands a jury trial on all questions of fact or combined questions of law and

17 fact raised by this complaint.

18

19 DATED September 10, 2018.

20 **CRISPIN EMPLOYMENT LAW PC**

21 By: s/ Craig A. Crispin

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